

Regular Session, 2010

SENATE BILL NO. 367

BY SENATOR MICHOT

PROCUREMENT CODE. Authorizes the use of reverse auctions by certain political subdivisions. (7/1/10)

AN ACT

To enact Part IV-A of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 38:2271, relative to purchasing by certain public entities; to authorize the use of reverse auctions by certain political subdivisions for the purchase of materials, supplies, or equipment; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part IV-A of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 38:2271 is hereby enacted to read as follows:

PART IV-A. PURCHASE OF MATERIALS, SUPPLIES, OR EQUIPMENT

BY CERTAIN POLITICAL SUBDIVISIONS USING CERTAIN

AUCTION METHODS

§2271. Purchase of materials, supplies, or equipment by certain political subdivisions using certain auction methods

A.(1) The bidding provisions of this Chapter shall not apply when a political subdivision purchases materials, supplies, or equipment using a reverse auction as authorized by, and in the manner provided herein. A political

1 subdivision may use reverse auction only with the determination by its
2 procurement officer that the best interests of the political subdivision would be
3 served and that electronic online bidding is more advantageous than other
4 procurement methods provided in this Chapter.

5 (2) For the purposes of this Part: (a) "political subdivision" shall mean
6 any political subdivision of the state, including but not limited to any political
7 subdivision as defined in Article VI, Section 44 of the Constitution of Louisiana.

8 (b) "Reverse auction" means a competitive online solicitation process on
9 the Internet for equipment, supplies, and other materials in which vendors
10 compete against each other online in real time in an open and interactive
11 environment.

12 B. Prior to the use of reverse auction authorized by this Part, the political
13 subdivision shall develop policies and procedures that may require that:

14 (1) Vendors register before the opening date and time, and as part of the
15 registration, require that the vendors agree to any terms and conditions and
16 other requirements of the solicitation.

17 (2) Vendors be prequalified prior to placing bids and only allow bidders
18 who are prequalified to submit bids.

19 (3) The solicitation shall designate an opening date and time and the
20 closing date and time. The closing date and time may be fixed or remain open
21 depending on the structure of the item being bid.

22 (4) At the opening date and time, the using agency shall begin accepting
23 online bids and continue accepting bids until the bid is officially closed.
24 Registered bidders shall be allowed to lower the price of their bid below the
25 lowest bid posted on the Internet until the closing date and time.

26 (5) Bidders' identities shall not be revealed during the bidding process;
27 only the successively lower prices, ranks, scores, and related bid details shall be
28 revealed.

29 (6) All bids shall be posted electronically and updated on a real-time

1 **basis.**

2 **(7) The using agency shall retain the right to cancel the solicitation if it**
 3 **determines that it is in the agency's or the state's best interest.**

4 **(8) The using agency shall retain its existing authority to determine the**
 5 **criteria that will be used as a basis for making awards.**

6 Section 2. This Act shall become effective on July 1, 2010; if vetoed by the governor
 7 and subsequently approved by the legislature, this Act shall become effective on July 1,
 8 2010, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Jay R. Lueckel.

DIGEST

Present law provides for the purchase of materials, supplies, and equipment by public entities through advertisement for, receipt of, and opening of public bids.

Present law, relative to the La. Public Bid Law, R.S. 38:2211 defines "public entity" to include, among others: each political subdivision as defined by Article VI, Section 44 of the Constitution, and each public housing authority, public school board, and public officer.

Proposed law, provides for the approval of such local political subdivisions of a reverse auction only with the approval of its procurement officer that the best interests of the public entity would be served and that electronic online bidding is more advantageous than other procurement methods.

Defines "reverse auction" as a competitive online solicitation process on the Internet for equipment, supplies, and other materials in which vendors compete against each other online in real time in an open and interactive environment.

Provides that prior to the use of reverse auction, a political subdivision shall develop policies and procedures that may require, among other things, that:

- (1) Vendors register before the opening date and time.
- (2) Vendors be prequalified prior to placing bids.
- (3) The solicitation designate an opening date and time and the closing date and time.
- (4) At the opening date and time, the using agency begin accepting online bids and continue accepting bids until the bid is officially closed.
- (5) Bidders' identities not be revealed during the bidding process.
- (6) All bids be posted electronically and updated on a real-time basis.
- (7) The using agency retains the right to cancel the solicitation if it determines that it is in the agency's or the state's best interest.

- (8) The using agency retain its existing authority to determine the criteria that will be used as a basis for making awards.

Effective July 1, 2010.

(Adds R.S. 38:2271)